

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00
AID-05 CEA-01 CIAE-00 COME-00 EB-07 FRB-03 INR-07
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OMB-01 FEA-01 ACDA-07 AGRE-00 CEQ-01 CG-00
DLOS-09 DODE-00 DOTE-00 EPA-01 ERDA-05 FMC-01
H-01 INT-05 IO-13 JUSE-00 L-03 NSC-05 NSF-01
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FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC IMMEDIATE 3706

INFO ALL EC CAPITALS

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E.O. 11652: N/A

TAGS: EEC, EFIS, PLOS

SUBJECT: EC FOREIGN MINISTERS COUNCIL , MAY 2, 1977: INTERNAL
FISHERY DISCUSSIONS

REF: (A) EC BRUSSELS 3062 (NOTAL); (B) EC BRUSSELS 3507

1. SUMMARY. AS EXPECTED, THE EC FOREIGN MINISTERS COUNCIL
ENGAGEDIN ONLY A MUTED DEBATE OVER THE IRISH SEIZURE LAST
WEEKEND OF TEN DUTCH FISHING VESSELS; ALL SIDES SEEM CONTENT
TO AWAIT THE EUROPEAN COURT OF JUSTICE'S RULINGS ON THE
CASE. END SUMMARY.

2. THE STAGE FOR THE MAY 3 EC FOREIGN MINISTERS COUNCIL
DISCUSSION OF IRISH UNILATERAL FISHERY CONSERVATION MEASURES
WAS SET BY TWO EVENTS: (1) THE DECISION BY THE EC COMMISSION
TO INITIATE PROCEEDINGS AGAINST THE GOI IN THE EUROPEAN COURT
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OF JUSTICE; AND (2) THE DECISION BY THE IRISH COURT HAVING
JURISDICTION OVER THE SEIZURE CASE TO ITSELF REQUEST AN
OPINION FROM THE COURT OF JUSTICE. THE COMMISSION ACTON
WAS INSTITUTED THROUGH A MAY 2 LETTER NOTIFYING THE GOI THAT
IT WAS BEING TAKEN TO COURT UNDER ARTICLE 169 OF THE ROME
TREATY, ON THE BASIS THAT ITS UNILATERAL MEASURES DIS-
CRIMINATE AGAINST THE OTHER EC MEMBER STATES AND ARE NOT

CONSISTENT WITH EXISTING REGULATIONS. THE LETTER ASKS THAT, IN VIEW OF THE URGENCY OF THE MATTER, THE GOI SUBMIT ITS OBSERVATIONS TO THE COMMISSION BY MAY 6. WHILE THE COMMISSION WAS PROCEEDING WITH ITS LETTER, THE IRISH COURT HEARING THE SEIZURE CASE ADJOURNED ITS PROCEEDINGS FOR TWO WEEKS, AWAITING A PRELIMINARY VIEW FROM THE COURT OF JUSTICE ON WHETHER OR NOT THE GOI ACTIONS CONFORMS TO THE AGREEMENT REACHED BY THE FOREIGN MINISTERS LAST OCTOBER 30 IN THE HAGUE (THAT UNILATERAL CONSERVATION MEASURES MUST BE TEMPORARY, NON-DISCRIMINATORY, AND TAKEN ONLY AFTER CONSULTATION WITH THE COMMISSION).

3. EC COMMISSIONER GUNDELACH TOLD REPORTERS AT THE COUNCIL MEETING THAT HE WAS PLEASED WITH THE IRISH COURT'S ACTION BUT THAT HE WOULD PERSIST WITH HIS OWN PROCEDURE. HE DENIED THAT THE COMMISSION'S ACTION WAS NOW REDUNDANT, SINCE THE IRISH COURT IS SEEKING ONLY AN OPINION FROM THE COURT OF JUSTICE, WHILE THE COMMISSION IS ASKING FOR A FORMAL RULING. HE INDICATED THAT, IN ADDITION TO ASKING THE COURT OF JUSTICE TO RULE ON THE LONG-TERM ASPECTS OF THE IRISH MEASURES, THE COMMISSION MIGHT SEEK AN IMMEDIATE INJUNCTIN SUSPENDING THEM.

4. DUTCH FOREIGN MINISTER VAN DER STOEL, IN REMARKS TO THE COUNCIL, WAS RELATIVELY MILD IN HIS CRITICISM OF THE GOI, AND LAID THE BLAME FOR THE CURRENT STATE OF AFFAIRS ON THE BRITISH, WHO, HE POINTED OUT, BLOCKED AGREEMENT ON THE COMMISSION'S PROPOSALS FOR AN INTERIM INTERNAL

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FISHERY REGIME DURING THE MARCH 25-27 AGRICULTURE COUNCIL (REFTEL A). HE NOTED THAT IS GOVERNMENT HAD SUBMITTED FISHING PLANS TO THE COMMISSION IN ACCORDANCE WITH THE FOREIGN MINISTERS' APRIL 5 AGREEMENT (REFTEL B) AND HAD BEEN READY TO GO ALONG WITH ANY EC SOLUTION TO THE IRISH FISHING PROBLEM. HE ADDED THAT THE SEIZED VESSELS WERE, IN FACT, FISHING IN IRISH WATERS ON THE BASIS OF THOSE PLANS. NOTING THAT THE EC'S POSTURE IN THIRD COUNTRY NEGOTIATIONS WILL BE SERIOUSLY JEOPARDIZED IF THE PRESENT SITUATION CONTINUES, VAN DER STOEL SAID IT WAS "ABSOLUTELY NECESSARY" TO DECIDE ON AN INTERNAL REGIME AS SOON AS POSSIBLE. IN A SUBSEQUENT TELEVISION INTERVIEW, VAN DER STOEL WELCOMED THE COMMISSION'S ACTION AGAINST THE IRISH AND EXPRESSED THE VIEW THAT THE GOI SHOULD BE HELD RESPONSIBLE FOR ALL DAMAGES IF THE COURT OF JUSTICE RULES THE UNILATERAL MEASURES ILLEGAL.

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5. IRISH FOREIGN MINISTER FITZGERALD ADOPTED A STEADFAST TONE IN DISCUSSION WITH REPORTERS. HE ANNOUNCED THAT " OUR MEASURES REMAIN IN FORCE," BUT DECLINED TO ELABORATE ON THE POINT BECAUSE HE " DID NOT WANT TO BE SEEN TO BE ISSUING CHALLENGES." HE WELCOMED THE CASE GOING TO THE COURT AND MAINTAINED THAT THE GOI WOULD NOT REPLACE " MEASURES WE BELIEVE TO BE PERFECTLY LEGAL." HE EXPRESSED CONFIDENCE THAT THE MEASURES WOULD BE UPHELD BY THE COURT.

6. FITZGERALD MAINTAINED THAT " NOTHING THE COURT SAYS NOW WILL PREJUDICE THE COASTAL BANDS ISSUE." ALLUDING TO THE ADOPTION OF THE COMMON FISHERIES POLICY BY THE COMMUNITY OF SIX, JUST BEFORE ENLARGEMENT, HE STATED THAT " THE ROME TREATY SPECIFIES NON-DISCRIMINATION, NOT RIGHT OF ACCESS, WHICH WAS A DECISION TAKEN BY SIX STATES AT A CERTAIN POINT IN TIME, REVOCABLE BY DECISION OF NINE STATES AT ANOHER POINT IN TIME; THEISSUE HERE IS NON-DISCRIMINATION

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AND HAS NOTHING TO DO WITH 50-MILE BANDS."

7. FITZGERALD TOLD REPORTERS THAT GUNDELACH INFORMED THE COUNCIL THERE WAS NO LONGER ANY POINT IN PROCEEDING WITH THE APRIL 5 FISHING PLANS SCHEME, WHICH HAD BEEN INTENDED AS A DE FACTO ALTERNATIVE TO THE IRISH MEASURES. FITZGERALD ADDED THAT HE HIMSELF THOUGHT THE IDEA " SEEMS DORMANT IF NOT DEAD." HE CONCLUDED BY SAYING THAT " AT THE MOMENT, THE MODD IS TO GET THE PERMANENT REGIME SETTLED QUICKLY WHILE THE COURT IS DECIDING ON OUR MEASURES." HE ADDED THAT THE COMMISSION'S PROPOSALS ON A DEFINITIVE INTERNAL REGIME ARE " NOT QUITE READY" BUT THAT" A NUMBER OF MEMBER STATES" SPOKE IN THE COUNCIL OF THE IMPORTANCE OF MEETING THE JUNE 30, 1977, DEADLINE FOR ESTABLISHING SUCH A REGIME.

8. AN EC COUNCIL SECRETARIAT OFFICIAL TOLD US HE WAS CONFIDENT THE COURT WOULD VOTE AGAINST THE GOI AND THAT THIS WOULD ALMOST CERTAINLY PREVENT BOTH THE UK AND IRELAND FROM PURSUING EXCLUSIVE 50 MILE FISHERY ZONES. ONCE THIS ISSUE IS DISPOSED OF, THEM THE EC AN FOCUS ON THE INTERNAL FISHERY REGIME AND MEMBER STATE QUOTAS, WHICH IN TURN WILL PERMIT ESTABLISHMENT OF INDICATIVE QUOTAS FOR THIRD COUNTRIES IN EC WATERS AND CONCLUSION OF FISHERY AGREEMENTS OR IMPLEMENTATION OF THOSE ALREADY SIGNED. HE NOTED SPECIFICALLY THAT THERE IS NO HOPE OF GETTING THE USSR TO CONCLUDE AN AGREEMENT WHICH WOULD RECOGNIZE THE EC UNTIL IT KNOWS HOW MUCH FISH IT WILL BE ABLE TO CATCH. HE ADMITTED THAT NEGOTIATIONS WILL BE FURTHER DELAYED AND THAT THE AUTONOMOUS PROVISIONAL QUOTAS WILL UNDOUBEDLY HAVE TO BE EXTENDED ONCE AGAIN AFTER THEY EXPIRE ON MAY 31 (SEE SEPTEL FOR FURTHER DISCUSSION OF EXTERNAL FISHERY ISSUES.)
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